

§ 1.6010

one person in the local market of such station and has failed to meet its burden of proving one of the defenses under § 1.6005 (a)(2) through (a)(4) with respect to such retransmission, the Commission shall:

(a) Make a finding that the satellite carrier violated 47 U.S.C. 325(b)(1) with respect to that station; and

(b) Issue an order, within forty-five (45) days after the filing of the complaint, containing—

(1) A cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such station;

(2) If the satellite carrier is found to have violated 47 U.S.C. 325(b)(1) with respect to more than two television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of the stations identified in the cease-and-desist order, until such time as the Commission, after giving notice to the station, determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such stations; and

(3) An award to the complainant of that complainant's costs and reasonable attorney's fees. Such award shall be made only after the complainant submits appropriate documentation in support of its request.

(c) Any cease-and-desist order issued hereunder shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served by the Commission upon the satellite carrier to which such order is directed.

§ 1.6010 Reporting of remedial measures.

Any satellite carrier found to have violated Section 47 U.S.C. 325(b)(1) shall, upon receipt of the cease-and-desist order, immediately take all necessary steps to comply with the statute. Within two (2) days of receipt of

47 CFR Ch. I (10–1–02 Edition)

the cease-and-desist order, the satellite carrier shall notify the Secretary of the Commission of steps taken to comply with the statute by written submission. The submission certified by the satellite carrier's chief executive officer shall also contain a copy of the pertinent cease-and-desist order, and shall be delivered to the Secretary of the Commission by means of one commonly used overnight delivery service, in addition to a copy delivered by United States mail.

EFFECTIVE DATE NOTE: At 65 FR 10721, Feb. 29, 2000, § 1.6010 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 1.6011 Effective date.

The rules in section 1.6000 through section 1.6009 shall become effective May 30, 2000. Section 1.6010 contains information collection requirements that are not effective until approved by the Office of Management and Budget. The effective date for this section will be announced by the Commission in the FEDERAL REGISTER.

§ 1.6012 Sunset provisions.

No complaint may be filed under this rule section after December 31, 2001. This rule subpart shall continue to apply to any complaint filed on or before such date. *See* 47 U.S.C. 325 (e)(12).

Subpart V—Implementation of Section 706 of the Telecommunications Act of 1996; Commission Collection of Advanced Telecommunications Capability Data

SOURCE: 65 FR 19684, Apr. 12, 2000; 65 FR 24654, Apr. 27, 2000, unless otherwise noted.

§ 1.7000 Purpose.

The purpose of this subpart is to set out the terms by which certain commercial and government-controlled entities report data to the Commission concerning the deployment of advanced telecommunications capability, defined pursuant to 47 U.S.C. 157 as “high-

Federal Communications Commission

§ 1.7002

speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology,” and the deployment of services that are competitive with advanced telecommunications capability.

§ 1.7001 Scope and content of filed reports.

(a) *Definitions.* Terms used in this subpart have the following meanings:

(1) *Facilities-based providers.* Those entities that provide broadband services over their own facilities or over Unbundled Network Elements (UNEs), special access lines, and other leased lines and wireless channels that the entity obtains from a communications service provider and equips as broadband.

(2) *Full broadband lines or wireless channels.* Lines or wireless channels with information carrying capability in excess of 200 Kbps in both directions simultaneously.

(3) *One-way broadband lines or wireless channels.* Lines or wireless channels with information carrying capability in excess of 200 Kbps in at least one direction, but not both.

(4) *Own facilities.* Lines and wireless channels the entity actually owns and facilities that it obtained the right to use from other entities as dark fiber or satellite transponder capacity.

(b) All commercial and government-controlled entities, including but not limited to common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)), cable television companies, Multichannel Multipoint Distribution Service (MMDS/MDS) “wireless cable” carriers, other fixed wireless providers, terrestrial and satellite mobile wireless providers, utilities and others, which are facilities-based providers and are providing at least 250 full or one-way broadband lines or wireless channels in a given state, or provide full or one-way broadband service to at least 250 end-user consumers in a given state, shall file with the Commission a completed FCC Form 477, in accordance with the Commission’s rules and the instructions to the FCC Form 477, for each state in which they exceed this threshold.

(c) Respondents identified in paragraph (b) of this section shall file the FCC Form 477 on diskette or via e-mail, as directed in the instructions to the FCC Form 477. Upon submission of each report, an original certification letter (as contained in the instructions to FCC Form 477) signed by the responsible official shall be mailed to the Commission.

(d) Respondents may make requests for Commission non-disclosure of provider-specific data contained in FCC Form 477 under §0.459 of this chapter by so indicating on Form 477 at the time that the subject data are submitted. The Commission shall make all decisions regarding non-disclosure or provider-specific information, except that the Chief of the Wireline Competition Bureau may release provider-specific information to a state commission provided that the state commission has protections in place that would preclude disclosure of any confidential information.

(e) Respondents identified in paragraph (b) of this section shall file a revised version of FCC Form 477 if and when they discover a significant error in their filed FCC Form 477. For counts, a difference amounting to 5 percent of the filed number is considered significant. For percentages, a difference of 5 percentage points is considered significant.

(f) Failure to file the FCC Form 477 in accordance with the Commission’s rules and the instructions to the Form 477 may lead to enforcement action pursuant to the Act and any other applicable law.

[65 FR 19684, Apr. 12, 2000; 65 FR 24654, Apr. 27, 2000, as amended at 67 FR 13224, Mar. 21, 2002]

§ 1.7002 Frequency of reports.

Entities subject to the provisions of §1.7001 shall file reports semi-annually. Reports shall be filed each year on or before March 1st (reporting data about the status of their broadband deployment as of December 31 of the prior year) and September 1st (reporting data about the status of their broadband deployment as of June 31 of the current year). Entities becoming subject to the provisions of §1.7001 for the first time within a calendar year